

LAW

A fair deal for the 'untouchables'?

Richard

JOSEF KOUDELKA / MAGNUM

As proposals go, a parliamentary Bill promoting the civil rights of Gypsy Travellers might appear foolhardy or at best forlorn. Yet the Traveller Law Reform Bill is neither; it contains proposals that will almost certainly find their way on to the statute book.

The genesis of the Bill is a remarkable story. It represents the culmination of more than four years of collaboration by Gypsies and other Travellers and the statutory and voluntary sectors (including representatives from the police, local authorities, education and health providers, churches, equality organisations, lawyers and planners).

Having actively supported this alliance, the Joseph Rowntree Charitable Trust then funded the technical drafting of the Bill, using the expertise of the Cardiff Law School.

Gypsies are probably the most deprived of the UK's (and indeed Europe's) ethnic minority groups. They have the highest infant mortality rates, the highest illiteracy rates and at least one third have nowhere lawful to live. Even those for whom there are legal pitches often have no safe water supply or sanitation and the sites are often located in appalling environments (by waste tips, close to busy roads and in industrial areas). As a 1993 report by the UN High Commissioner for Refugees (UNHCR) concluded, Gypsies "are Europe's 'untouchables', being for the large part a Third World people, living under Third World conditions".

Today Britain's Gypsies find themselves in much the same situation as they did 50 years ago. There were then far too few camping sites and much friction between the settled and travelling communities. The problem had arisen largely because of increased planning control and other restrictions to regulate camping.

Against this highly charged background, the Liberal MP, Eric Lubbock, promoted a Private Member's Bill that subsequently became law as the Caravan Sites Act

1968. The Act sought to bring sense into an otherwise senseless situation by obliging councils to provide sites for Gypsies.

In 1994, as a "knee-jerk reaction" (to quote the Police Federation) to a highly publicised rave, Parliament ended the duty of local authorities to provide sites. Many of the hard fought-for sites, built in the 1970s and 1980s, have since fallen into disrepair and closed. We again have the hostile environment of too many Gypsies seeking too few sites, of some behaving badly and of local vigilante action.

Out of this depressing scenario has emerged the imaginative and unexpectedly positive Traveller Law Reform Bill, its content driven by the pragmatic ideas of Gypsies and Travellers and their statutory

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and voluntary-sector partners. Equally pleasing is the presence of the tireless Lord Avebury (formerly Eric Lubbock) as their parliamentary advocate.

As *Gaining Ground*, a preliminary report to the Bill, noted in 1999, "Gypsies and other Travellers do not seek 'special' or 'preferential' treatment. All that is sought is equal treatment; an equality of opportunity, equal access to civic life and social welfare services, accepting the responsibilities that must accompany such a right".

Accordingly, many of the clauses in the Bill make important amendments to remove discriminatory statutory provisions.

An example concerns public support for the construction of caravan sites. Rather than reintroduce the previous system (repealed in 1994), the promoters highlight the fact that Exchequer funds are available to subsidise public housing. Accordingly, the Bill removes the discrimination by extending the Housing Corporation's powers to enable it to fund all forms of accommodation, including caravan sites.

One of the Bill's most significant innovations is the removal from the political stage of decisions concerning site provision and site location.

This is achieved by requiring local authorities to "facilitate" site provision (by, for example, providing for planning permissions for owner-occupied sites, tolerating historic sites and collaborating with housing associations, which will have power to develop and manage sites).

Those authorities that fail to facilitate the provision of sufficient sites will have greater difficulty in evicting illegal encampments on their own land; likewise, planning inspectors will have to have regard to such a failure when determining applications by Gypsies for permission to develop their own sites.

It is inevitable that the Bill will attract criticism from those who characterise Gypsies as a criminal underclass. Having acted for Gypsies and Travellers for more



Images of Gypsies that suggest a romantic life without care as the Romany family in Sussex before the war (below), are far removed from the reality for many of an encampment in an unhealthy industrial landscape

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than 20 years, I have spent much time in their company. Most (by which I mean more than 95 per cent) live in out-of-the-way places, contribute greatly to their communities and are immensely generous, wonderful people.

A few are not my cup of tea and a small minority are badly behaved.

What is so depressing (as it must have been for Jewish and black people) is that somehow it is considered acceptable for the tabloid press and politicians to stigmatise as evil an entire ethnic group on the basis of the behaviour of the few. It will, of course, take more than a Bill to change these attitudes.

The author is a solicitor and director of the Traveller Law Research Unit, Cardiff Law School.



Deportations illegal, says court

Romanies who were thrown out of Belgium had their human rights violated, says David Altheer

Lawyers and action groups who campaign for asylum-seekers are hailing a European Court of Human Rights decision that a West European Government was wrong to deport a large group of Romanies.

The Strasbourg court ruled that Belgium had violated key provisions of the European Convention on Human Rights in October 1999, when it expelled 74 Roma who were seeking asylum from Slovakia. The court awarded €10,000 (about £6,000) to the complainants, Jan Conka, a Gypsy, and his family.

Claude Cahn is the research director of the Budapest-based European Roma Rights Centre (ERRC), which helped to mount the case and which is funded by the billionaire financier George Soros. Cahn says: "It is the first time the court has found a violation of Article 4 of Protocol 4 of the European Convention, which bans the collective expulsion of aliens."

Dimitrina Petrova, the ERRC's executive director, says: "This is an important decision for the Romany family concerned, and it has implications for future cases in the context of post-September 11 Fortress

Europe policies." The Belgians had tried to detain 150 Slovak Roma in two Belgian cities in October 1999. Local authorities in Ghent summonsed some of them to appear before the police and others were detained by police during house searches. Still others were lured to the police station under the ruse that they had to complete some paperwork as part of their asylum applications. Once at the police station, the Roma were transferred to a detention centre in Brussels. After four days under police guard, 74 of the Gypsies were deported on October 5.

The deportations took place after a request by the Strasbourg court the same day that the Belgian Government stay the

expulsions for eight days to permit consideration of whether deportation would violate the Convention.

Conka, his wife Maria, and their children Nadia and Nikola, helped by the ERRC, filed an application to the European Court, claiming that their fundamental rights had been violated.

In its February 5 statement, the European Court announced that it had found violations of Convention Articles:

- 5(1), the right to liberty and security;
- 5(4), the right to take proceedings to decide lawfulness or otherwise of detention;
- 4 of Protocol 4, the prohibition of collective expulsion;
- 13, guaranteeing the right to an effective remedy. The court said that the applicants had not had a remedy available that satisfied the requirements of Article 13 to air their complaint under Article 4 of Protocol No 4.

Elsbeth Guild, a London solicitor at Kingsley Napley who specialises in immigration cases, says: "If the UK authorities do not take care, they may find themselves in Strasbourg as well, seeking to justify their practices on expulsion of families."



"End deportations": Romany asylum-seekers demonstrate outside Parliament